

MEMORANDUM

DATE: 04/18/00

TO: POWTS Plan Reviewers
Wastewater Specialists
County Code Administrators
Other Interested Parties

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SUBJECT: Frequently Asked Questions and Code Citation Corrections

Enclosed is the next series of Frequently Asked Questions (FAQ's). Many of the questions received were slight variations of others. The question that appears in the document was selected as most representative of the others.

Also enclosed, is a summary document that lists various code references and citations that are incorrectly listed in the final code draft. We have been advised by the Revisor's office that some of these errors will be corrected prior to printing of the "official" code. Others will have to be included in a "fix-up" code package. If you discover what appear to be other incorrect code references or citations, please let me know.

One day training sessions for POWTS Inspectors on the revised code are planned for late May and early June. As soon as meeting facility arrangements can be completed, a formal notice and invitation/registration form will be sent.

If you have any questions, please feel free to call. Thanks!

Encl.

Comm 83 Code Package FAQ's

04/18/00

Q. What is the latest status of the Comm 83 code package?

A. As of the date of this document there is no new information to report. Based on an update from the Revisor's office, the implementation date is still set as July 01, 2000.

Q. Is the version of Comm 83 on the Commerce website the most current or have changes been made?

A. Over the past few years based on public hearing comments, legislative hearings and negotiations there have been many revisions to the code text. The version that is on the website and the version that everyone should be referring to at this time is labeled as follows: "RULES in FINAL DRAFT FORM Germane Modifications". Also each page of the revised code should be labeled in the upper right hand corner as follows: "DSB/81,83,85,91/FD-GM". This is the document we will all continue to work with until the Revisor's office publishes the "official version" of the code.

Q. Can any municipality invoke the optional delay for use of certain technologies, designs or methods delineated in Table 83.04-2 of the revised code?

A. Only a "governmental unit" (county) can adopt an ordinance that could contain a delay provision. The governmental unit may take into account requests from other municipalities within its boundaries when the delay provisions are added to the ordinance. For example, if a town desires to delay use of a technology for a period of time, (up to January 01, 2003) within its boundaries, the town cannot pass an ordinance to that affect. However, the town can approach the county and request that the county place that delay in its ordinance.

Q. Does the revised code, mandate a specific way the delay must be handled by a governmental unit?

A. The only requirement is that the delay must be implemented by ordinance. The revised code does not specify a specific strategy as to the scope of the limitation. As an example, options could include a complete prohibition or only within a certain geographical area, a quota system, a permit to operate requirement or a performance bonding provision. A governmental unit could choose to implement these types of strategies for any, some or all of the technologies listed in Table 83.04-2.

Q. Will the counties be required to submit their revised ordinances to the department for review?

A. Formal submittal to the department of county ordinance revisions that relate to the POWTS program will not be required.

Q. What will be done to address soil test reports that contain percolation test and/or soil boring information based on previous code requirements?

A. Soil tests that contain perc test data that were filed prior to July 2, 1994 can continue to be recognized. See Comm 83.44(4)(a)1.e. Also, Table 83.44-1 lists soil application rates based on perc rates. However, a decision regarding the suitability of an individual soil report, (perc or bore hole data) can always be made as part of the sanitary permit issuance process at the county level. A county can request verification of information, additional information, or decide the report on file is inadequate and cannot be used.

Q. Does the revised code contain a specific subsection that addresses minimum septic tank capacity requirements?

A. There is no specific code section that addresses septic tank sizes. This is one area we have not talked about very much. What is happening right now is that the Product Section has sent letters to all the tank manufacturers informing them that they will have to obtain revised approvals for their products. As part of this process, each tank will be assigned treatment and flow credit based on retention time and predicted three year pumping intervals. That in turn will drive tank sizes for specific site applications. Designers/Installers will be able to select tanks that will meet the design they are contemplating based on the ratings that are assigned to each tank. (This is a good example where performance criteria in the revised code will drive the decision making process.) The May issue of the Plumbing Code Report will contain a more detailed explanation of this process.

Q. In previous correspondence to the Department, some counties have voiced opposition to the groundwater definition [Comm 81.01(114)] feeling the high groundwater definition [Comm 81.01(118)] was more appropriate to POWTS installations. [Comm 83.03(2)(b)2.a.] By county ordinance, can a county use the high groundwater definition as a basis for evaluating soils and existing POWTS installations?

A. Reference is made to high groundwater elevation throughout the code including the design and installation section. Use of redoximorphic features, (soil mottles) is an acceptable method for predicting where groundwater is expected to occur for new and existing installations.

Q. Present code [Comm 83.06(2)(c)] allows a sanitary permit to be transferred between owners and between plumbers. The language in the revised code seems to imply that a permit transfer can only be done between owners [Comm 83.21(4)]. Is there a provision that allows permit transfers between plumbers as previously done or is a new sanitary permit required if a change in plumbers occurs?

A. Based on the provisions found in chapter 145, Wis. Stats., the Sanitary Permit has always belonged to the owner – not the plumber. If the owner chooses another plumber a new permit is not required but the application paperwork should reflect the change. If the original plan was prepared by an engineer, designer or architect the plan does not need to be re-approved. If a plumber prepared the plans then a set of plans prepared by the new plumber would be required. See s. Comm 83.22(2)(c) of the revised code and chapter 443.17, Wis. Stats.

Q. Under Comm 83.21(7) of the revised code, sanitary permit revocation is the only option identified if problems occur from false statements or misrepresentation of facts. Can a county ordinance, include a provision to allow a sanitary permit to be suspended and if the conditions causing the suspension are rectified, then can a reinstatement of the sanitary permit occur?

A. This code subsection states: “A governmental unit may revoke a sanitary permit...”. A county can certainly choose to implement an interim step such as a “stop work order” or suspension. The interim process step should be clearly identified in the county ordinance.

Q. Under present Comm 83.055, some counties have developed a program that addresses such issues as improvements to buildings caused by > 25% remodeling and changes in building usage. Can a county adopt, by ordinance, provisions similar to present the Comm 83.055 rules, which would be more restrictive, or must a county abide by the rules in the revised code [Comm 83.25(2)]?

A. Section 145.20(2)(e)&(g), Wis. Stats., give the local governmental unit broad authority to perform activities “considered appropriate by the governmental unit responsible for the regulation of private sewage systems...”

Q. Would the department foresee a problem with having a maintenance program that requires septic tank maintenance on a two (2) year rather than three (3) year basis? Although the code refers to sludge and scum volume as being the deciding factor for tank maintenance, does an increased maintenance schedule create a problem with a county being too restrictive?

A. Section Comm 83.54(3)(b) of the revised code states in part: “The servicing... shall occur at least when the combined sludge and scum volume equals 1/3 of the

tank volume.” Therefore, it appears a schedule based on a time interval rather than volume would not be in conflict with the code. However, keep in mind that s. 145.245(3), Wis. Stats., gives the option of “inspection *or* pumping”. Requiring that treatment tanks be pumped every two years appears to be in conflict with this statutory option.

Q. We keep hearing that if a filter is installed on the outlet side of a septic tank that documentation will have to be recorded with the deed. Is this correct?

A. Section Comm 83.21(2)(c)5., states that documentation of maintenance requirements must be recorded with the deed for the property, *if the management plan* for the installation or modification under s. Comm 83.54(1) involves one of more of the following: a. Evaluating or monitoring any part of the system at an interval of 12 months or less; b. Servicing or maintaining of any part of the system at an interval of 12 months or less. Unless a management plan includes information from the manufacturer of the filter component, or the system designer that specifies either of the conditions cited above, documentation would not have to be recorded with the deed.

Q. Will a county need to be specifically authorized to issue sanitary permits and conduct inspections on POWTS systems identified in table 83.04-1 of the revised code? What process is used in obtaining Commerce approval or in verifying that Commerce authorization has been obtained, and what information is needed by Commerce to approve staff and/or the county for a POWTS system?

A. The department will not be specifically “authorizing” counties to issue sanitary permits and conduct inspection on POWTS technologies identified in Table 83.04-1. The department may ask for confirmation, in the form of a letter, of attendance at recognized training during the POWTS plan review process similar to the way the current Comm 83.09(2)(b) policy plan review procedures are handled.

Q. What constitutes a mechanical POWTS treatment component? Does this include the Bio-Microbics Fast, Cromaglass, Whitewater, Multi-flow, Norweco etc. type systems that in the past have been approved and allowed or does it include mechanical systems that are of a specialized type of design? What is the definition of a “Mechanical” POWTS?

A. Mechanical POWTS treatment components primarily consist of aerobic treatment units. They may also include other units such as sand filters where some form of mechanical treatment mechanism or process is involved within another component. For example, some ATU’s are self-contained – the entire treatment process is contained in a tank specifically designed for that unit. Others may

consist of a treatment component that is designed to be placed inside of another tank that is also serving other treatment processes.

Q. Does the “Terralift” or other similar remediation process require a sanitary permit be issued?

A. Section Comm 83.21(1)(b) of the revised code specifically identifies the circumstances when a state sanitary permit card must be issued. The “Terralift” or similar remediation process does not meet any of the conditions cited. However, a county should consider instituting some form of notification process (similar to the process currently in place) to ensure that the “Terralift” or any other soil remediation process is only used on POWTS systems that are located the proper vertical soil separation distance above a limiting condition.

Q. Before a county issues a sanitary permit must a plumber provide documentation that they have completed training for the approved POWTS type and how will this be done, or will there be a listing of certified installers that counties will have access to?

A. Before issuing a sanitary permit, the county should have proof that the plumber responsible for the installation had attended training for the type of POWTS technology listed in Table 83.04-1. For formal classroom training, this “proof” may be in the form of a certificate from whoever ran the training course or a completed Attendance Verification Form that the department provides to those putting on approved training. At this time the department does not intend to maintain a list of installers (or inspectors) that attend training.

Q. Is the county responsible for contacting the municipality to determine if they are willing to delegate the responsibility of whether the proposed construction will affect an existing POWTS under the provisions cited in s. Comm 83.25(2) of the revised code or is it up to the local municipality to take the initiative?

A. How this arrangement is made is strictly up to the county and the municipalities.

Q. Who is responsible for testing POWTS components before a POWTS system is put into service? The county, installer, or service provider?

A. The installer is responsible for testing of POWTS components. The county may ask to be present at the time the testing is being conducted. For example, Marathon County has written into their proposed ordinance that they are to be notified when testing will be conducted. The county may choose to witness the testing at their discretion.

Q. Is there a mechanism or need to test influent quality? Are buildings having specific uses automatically viewed as exceeding the influent quality limits and if so, are these building types recognized?

A. For most applications there should be no need to test influent quality. Comm 83 was written based on the assumption that POWTS systems would treat “domestic wastewater”. The term domestic wastewater is defined in Comm 81. In addition, Table A-83.43-1 in the Appendix lists public (commercial) facilities. Several types of facilities listed in that table may produce “high strength waste”. If there is a concern that the wastewater may be other than “domestic” it would be appropriate to request that it be tested or in the case of a proposed installation, that data from a comparable use be provided.

Q. Inspection, maintenance or servicing reports shall be submitted in 10 business days and in manner specified by department or agent. Can a county establish submission guidelines or does this section require the submission of inspection, maintenance and servicing reports within 10 business days without exception? Does the replacement of a tank manhole cover, riser section, baffle, pump, alarm, cleanout, vent, observation pipe etc. constitute service or maintenance under this section?

A. During the initial time period after code implementation, the department expects that a variety of mechanisms or strategies for achieving the reporting requirement will be evaluated and implemented by counties and those who will be submitting the reports. The reporting requirements for inspection, maintenance or servicing events that are listed in Comm 83.54(4) address existing POWTS. A reporting requirement will also be included in the management/maintenance plans that will be a part of the approved plans for other POWTS after the effective date of the code. Repairs such as those listed in the question are not subject to this reporting requirement but may be subject to local permitting and/or inspection and reporting requirements if the county so desires.

Q. Comm 85: A minimum of 3 soil profile evaluation excavations shall be used to delineate a site for each POWTS component. Profile evaluation excavations for a replacement area are not identified, however on page 17 of 28 in the “In-ground Soil Absorption Component Manual” there is mention of a reserve area being identified if one is provided. Does this mean that the provision of providing a reserve area as part of the contingency plan is a viable option that a county can require in lieu of utilizing a sewage holding tank as a replacement system?

A. A county may, by ordinance, require that other options be explored before a holding tank is designated as the “contingency plan”. For example, citing from the proposed Marathon county ordinance: “A sanitary permit for the installation of a

holding tank, or which designates a holding tank as a replacement system, shall not be issued unless the Soil and Site Evaluation determines that the property is unsuitable for any other type of system permitted by Comm 83, Wisconsin Administrative Code...”

Q. Comm 85: The one (1) foot exception where a mottled zone is < 12” thick and is immediately above a textural change has been removed, does the 12” rule previously used no longer apply?

A. The 12” rule has been replaced with the provisions cited in s. Comm 85.30(3)(a)2., of the revised code. This is a recognition of the numerous petitions that are being granted to exceed the current 12” rule requirement.

Q. Component Manual – In-Ground Soil Absorption Component Manual: Seepage Pits are no longer identified as a system alternative. By their omission, does this mean that seepage pits will no longer be allowed?

A. Seepage pits are not part of the in-ground soil absorption component manual. An individual plan submittal could be made to the department with substantiation of performance claims. If there is sufficient demand for seepage pit construction, perhaps someone will step forward and prepare a component manual that can be recognized via the processes identified in Comm 84.10(3).

Q. For clarification purposes, for pressurized systems with influent <10⁴ cfu/100ml, can a pressurized system be installed on a site having a limiting condition at a depth of 33” or greater. (9” system + 24” of suitable soil) otherwise 45” for influent having >10⁴ cfu/100?

A. Minimum depth of suitable soil will be dependent on effluent quality, type of treatment component(s) used and location and size of treatment/dispersal component. Because of the variables that can be involved, mention of minimum depths to limiting conditions was specifically avoided in the code and component manuals.

Q. For clarification purposes, for non-pressurized systems with influent <10⁴ cfu/100ml, can a system be installed on sites having a limiting condition at a depth of 36” or greater (12” system + 24” of suitable soil) otherwise 48” for influent having >10⁴ cfu/100 (the pitch of pipe at 4”/100’ would also have to be taken into account)?

A. Please see the response to the previous question above.

Q. For subdivision lots or outlots that had a restriction or prohibition placed upon them, if a site is found that will allow the installation of a POWTS system, can the

restriction or prohibition be waived without a formal review or specific approval from the department or will the department need to do a review and provide written documentation that the restriction or prohibition is waived as is being done under the current code?

A. Any lot restrictions or prohibitions recorded on a final plat that are related to POWTS systems suitability must be formally waived by the department. The procedure currently in place for this waiver process will remain in effect when the revised code is implemented.

Q. Will soil suitability still have to be evaluated for pit privies?

A. Section Comm 91.12(1)(b)1., contains soil and site requirements for pit privies.

Q. Will water meters be required for existing structures served by a holding tank system?

A. Section Comm 83.54(2)(c) states that influent flow meters shall be installed if a POWTS includes one or more holding tanks. This section applies to all holding tank installations – new or replacement. Section Comm 83.54(2)(d) lists several methods that may be employed for metering influent flow. One of those includes the installation of a meter on the water distribution system.

Q. What will be the process for renewing of a Sanitary Permit that was issued prior to the effective date of the revised code?

A. The process for renewing of a State Sanitary Permit is listed in s. 145.135(1)&(2) Wis. Stats. It has not changed. Section 145.135(2)(e) Wis. Stats. states: “Renewal of the sanitary permit will be based on regulations in force at the time renewal is sought, and that changed regulations may impede renewal.”

Q. Who will be responsible for notifying owners of the O&M responsibilities and servicing reports?

A. The owner of a POWTS is obligated to insure that the inspection, maintenance or servicing be completed. The specific inspection, maintenance or servicing requirements will either be part of an approved management plan for systems approved after the effective date of the revised code, or at intervals listed in the code for existing systems. The owner or their agent must report that data to the department or designated agent (county). The county may choose to include a notification provision in their maintenance tracking system for other POWTS systems similar to the one used as part of the WI Fund maintenance process.

Q. Who will be enforcing the inspection, maintenance or servicing and reporting responsibilities of the owner(s)?

A. The department has acknowledged that the enforcement of these requirements will primarily be the responsibility of the counties.

Q. How will this reporting and tracking responsibility affect counties that currently send maintenance notices to property owners as part of their WI Fund program requirements?

A. Those counties that already operate a maintenance tracking system as part of their WI Fund program should be the least affected because they already have a mechanism in place. The key difference is that the database used for tracking will slowly be expanded to include all POWTS systems within their jurisdictional area.

Q. Comm 91 – Will a Sanitary Permit be required for vault or pit privy installations?

A. The state Sanitary Permit is to be issued for the installation of a POWTS system. The revised codes make a distinction between POWTS systems addressed in Comm 83 and non-plumbing systems addressed in Comm 91. Local governmental units may restrict or place more stringent limitations or requirements relative to the design, installation, maintenance or use of non-plumbing systems. This includes the issuance of a local permit to allow the installation of a non-plumbing system listed in Comm 91.

Q. What criteria has been established to determine if an existing POWTS is “sufficient to accommodate” additional wastewater load? Can a county establish their own criteria for making this determination. i.e. 1 (one) bedroom increase, minimum tank capacities, undersized system covenant, 2 (two) bedroom increase, private or public?

A. Section Comm 83.25(2)(c) of the revised code describes what a modification may consist of. The determination of whether the modification could affect the POWTS system could be based on various factors that may be unique to each site. In addition, Section 145.20(2)(e)&(g), Wis. Stats., give the local governmental unit broad authority to perform activities “considered appropriate by the governmental unit responsible for the regulation of private sewage systems...” This could include setting additional requirements or criteria, by ordinance, that specify when a determination has to be made.

Q. The department has indicated that state Sanitary Permits are not to be issued for non-plumbing systems listed in Comm 91. Does this create a conflict with the provisions of s. 66.036, Wis. Stats., that requires that a Sanitary Permit be issued prior to a building permit?

A. Section 66.036(1), Wis. Stats., states: “No county, city, town or village may issue a building permit for construction of any structure *requiring connection to a private domestic sewage treatment and disposal system* unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained.” This statutory provision is intended to address situations where the structure contains or will contain plumbing that discharges domestic wastewater to a POWTS system. It was not intended to apply to non-plumbing systems such as those listed in Comm 91. A municipality can, by ordinance, require that a local permit for a non-plumbing system (if allowed within the municipality) be obtained prior to issuance of a building permit.

Q. According to 83.44 (3)(b), a system may be designed to serve a site with as little as 6" of unsaturated in situ soil. In addition, as per 83.44 (3), the influent must be introduced at least 24" above the saturated condition.

In these sections there is no mention of the need for "A+4".

On a site with 6" of unsaturated "A" horizon, the likely solution would be to install an 18" mound with an ATU preceding it. This would meet the intent of both 83.44 and 83.44(3)(b). But, according to Table 3 of the Mound component manual, a Mound may only be placed on a site with "A+4". Doesn't this appear to be a conflict?

A. This is not a “conflict”. The revised code establishes specific minimums while the manuals provide a solution for a specific set or range of site conditions. Other solutions such as an “engineered system” may also be available for a particular site. A similar question regarding the relationship between the 6” minimum of suitable in situ soil and the “A+4” requirement found in Comm 85 was addressed in the first “FAQ” document dated 03/07/00 and sent to all counties. The question and answer are reprinted below for your review.

Q. How do the provisions in s. Comm 85.30(2)(b) that address “A+4” sites affect the 6” minimum of suitable “in situ soil” listed in s. Comm 83.44(3)(b)1.?

A. The depth of an “A horizon” can affect the 6” minimum. If an “A horizon” is present and it is >2” thick, the minimum depth of suitable “in situ soil” will increase proportionately based on the thickness of the “A horizon”. For example, if the “A horizon” is 5 inches thick and there must be 4 inches of unsaturated soil beneath the “A horizon” then there will be a minimum total of 9 inches of suitable “in situ soil”.

Q. Is there any way to place an onsite system on a property with less than "A+4" under terms of the proposed code?"

A. Under the current code the department has processed petitions for placement of a mound on a site that has less than "A+4" site conditions. The approval for the petition was granted because the soil tester (w/ concurrence from department field staff) was able to make a determination of what the limiting condition was and where it was expected to occur. Therefore, a POWTS system that could be based on one of the component manuals or an engineered system that will provide an equivalent degree of treatment and dispersal could be designed and submitted to the department for review and possible approval.

Although it is not possible to predict how individual petitions received under the revised code will be processed, it should be recognized that s. Comm 83.24(1) of the revised code states: "The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3."

Q. We keep hearing that counties can "opt out" of the entire revised Comm 83 code for a period of up to three years. Is this correct?

A. A governmental unit (county) may, by ordinance, invoke an optional delay for use of certain technologies, designs or methods delineated in Table 83.04-2 of the revised code up to January 01, 2003. A governmental unit may not opt out of implementing the rest of the code.